

NCJIS ADVISORY COMMITTEE MEETING MINUTES

Nevada Department of Records and Technology

333 West Nye Lane, Suite 100

Training Room

Carson City, Nevada 89706

August 7, 2008

1:00 p.m.

MEMBERS PRESENT

Captain PK O'Neill, Nevada Department of Public Safety, Chief Records and Technology Division

Assemblyman Bernie Anderson

Todd Westergard, Administration Chief, Gaming Control Board

James Earl, Executive Director, Technological Crimes, Attorney General's Office

Ron Titus, State Court Administrator, Supreme Court

MEMBERS WITH PROXY

Lorraine Bagwell, DEP Director, Support Services, Department of Corrections, proxy on behalf of
Director Howard Skolnik, Nevada Department of Corrections per letter, dated July 1, 2008.

MEMBERS EXCUSED

Senator Maurice Washington

Frank Adams, Executive Director, Nevada Sheriff's and Chief's Association

John Helzer, Washoe County Deputy District Attorney

A. Call open meeting to order and roll call (action)

Captain PK O'Neill called the meeting to order at 1:10pm and roll call was taken by Anita Kerr. All attendees were asked to sign in and the sign in sheet is attached to the original minutes as Exhibit A.

B. January 30, 2008 meeting minutes comment, revision and acceptance (action)

Mr. Westergard motioned to accept the January 30, 2008 meeting minutes. Assemblyman Anderson seconded the motion. All members were in favor. The motion was carried unanimously.

C. Election of NCJIS Advisory Committee Chairperson and Co-chairperson (action)

Captain O'Neill explained in accordance with NCJIS By-laws it is time to elect a Chair and Co-chair. Mr. Titus motioned to continue with the current Chair and Co-chair. Ms. Bagwell seconded the motion. All in favor with Captain O'Neill opposed. The Chair will remain Captain O'Neill and the Co-chair will remain Assemblyman Anderson.

D. Review and possible modification of Advisory Committee By-Laws (action)

Captain O'Neill stated that public comment would be welcome during discussion on the NCJIS Advisory Committee By-laws. Members of the committee discussed various changes to the By-laws. Captain O'Neill stated he would like the NCJIS Advisory Committee meeting to be held in close proximity to the Steering Committee meetings as the Steering Committee has pertinent information to share with the Advisory Committee. The next Steering Committee meeting is scheduled for November of 2008. Assemblyman Anderson pointed out the committee will not suffer during the transition time of the old by-laws to the new by-laws. Captain O'Neill felt that with all the comments discussed today and with Mr. Earl's e-mail he would come back and supply to the members in early 2009, a written document for further discussion and/or motion for action. Mr. Earl questioned if it would be appropriate for the by-laws to say "meet twice annually per

D. Review and possible modification of Advisory Committee By-laws (action) cont.

statute, meeting held at the call of the Chair and should follow the meeting of the Steering Committee”. Assemblyman Anderson feels it is essential that the NCJIS Committee Meeting be at the call of the Chair and the minimum requirement by statute. He felt it is important for the members to give the Chair the power to call a meeting if it is necessary, but minimum requirement by statute is twice annually. Captain O’Neill stated that regular meetings should be held no less than twice per calendar year and at the call of the Chair. Mr. Titus motioned to place the by-laws on the next agenda. Mr. Earl seconded the motion. All in favor none opposed. The draft will be available at the next NCJIS Advisory Committee meeting.

E. NCJIS Administrative Policies and Procedures – Dianne Draper, Supervisor, Programs Development & Compliance (action)

Ms. Draper referred to the packet passed out to the members and stated she hoped they had a chance to review them. Ms. Bagwell asked her to highlight the changes made. Ms. Draper stated there are numerous areas that have been revised, there were too many to summarize. Mr. Earl said when they were sent the packets there were two sections still being re-written and asked if those were completed. Ms. Draper stated the two sections were Warrants and Validation Files and that they were not finalized because the new Validation program was not completed as of yet. She stated Records and Technology had just lost there Programs Developer and as soon as the sections are finished they will present them to the members. Mr. Earl asked if there are any points of friction or contention or are these pretty much accepted as normal policy. Ms. Draper informed the members the drafts have gone through three Steering Committee meetings for review. Mr. Earl asked if it is fair to state that the user community as well as the Department of Public Safety is satisfied with the draft. Ms. Draper indicated they were satisfied and further stated the draft also had gone through Records and Technology management for review. Captain O’Neill pointed out the draft follows the National Crime Information Center model policies as well. He pointed out during the FBI audit the Department was asked if they were updating the policies and stated they were. Ms. Draper asked the members to approve the policies so they can get them enacted. Ms. Bagwell asked Ms. Draper if there is anything in federal or state statute stating how long it is necessary to retain results of background checks. Ms. Draper stated there is no statute; the CJIS Systems Agency say 3 years to keep all results for audit purposes. Ms. Bagwell asked if this was a federal policy or state policy. Ms. Draper stated it was state policy. She further stated the Repository goes by the requirements of the Library and Archives. Captain O’Neill asked if it needs to be a hard copy or can they only keep the signed copy of the proof of the running of the background check. Captain O’Neill explained to Ms. Bagwell they need to keep something that proves the criminal history was run and how it was destroyed. Ms. Diane McCord referenced Section 3 of the NCJIS Policies stating the FBI wants to see the final disposition. Patty Peters suggested keeping the documents for three years and then deciding if you wanted to retain them after that time. Assemblyman Anderson stated many agencies are struggling with document retention. The Legislature is looking at different policies, including Federal Legislation, as to who is responsible for holding information. He feels the role of the Records and Technology Division will increase as technology increases. Captain O’Neill suggested scanning for electronic purposes which is still considered maintenance. Ms. Bagwell wanted to know if she needs to physically print the background check or can they run it and validate they ran it? Ms. Draper stated if she asks for that criminal history you would not be able to provide it if you did not print it or store it electronically. Ms. Bagwell needs to be able to take the policy to her department to ensure they are in compliance. Ms. McCord stated she was referring to fingerprint background checks and not name checks in reference to policy. She further stated name checks do not need to be kept only an audit log needs to be maintained. Assemblyman Anderson recommended that the Department of Corrections keep the negative responses for challenge reasons. Ms. Bagwell wants to keep consistency throughout the law enforcement community. Captain O’Neill told Ms. Bagwell that

E. NCJIS Administrative Policies and Procedures – Dianne Draper, Supervisor, Programs Development & Compliance (action) cont.

the Department of Corrections is unique and it is up to their Department to implement internal policies to that effect. Mr. Westergard asked if the State can retrieve the snapshot of the run at the time through offline searches. The answer was affirmative. Ms. Bagwell referred page three of the Policy and Procedure indicating ORI (Originating Routing Index or Originating Agency Identifier) does not have a definition. Ms. Draper stated the definition will be added. Mr. Titus asked about requirements for access and Ms. Draper said it is a National Crime Information Center policy. Ms. Draper asked if she could make the one change on page one to include the definition for ORI and for the Policy and Procedures to be approved today. Mr. Titus motioned to accept the policies with the definition of ORI to be included. Mr. Earl seconded the motion. Motion carried unanimously. Ms. Bagwell discussed the possibility of putting “adopted” in the footer of the policies so it can be tracked to the Advisory Committee meetings.

F. Electronic Dispositions (E-Dispos) – Steve Tuttle, Administrative Office of the Courts (discussion)

Mr. Tuttle updated the members of the committee. He explained electronic depositions were launched several years ago out of Clark County. He explained C – Track, which is Clark County’s case management system, serves the courts and prosecuting attorney’s office, is a management system combining all information and then the information can be extracted and sent to the Criminal History Repository via electronic transfer. The success rate was 30% due to the fact they were unable to match the PCN to the charge sequence. Mr. Tuttle stated another project was launched to help fix the problem. The current project has four phases. They are in phase one which gives a state charge to the Multi County Integrated Justice Information System (MCIJIS) to be matched prior to the information going to the Criminal History Repository. They import booking documents and compare state charges. This phase is 60-70% completed and should be in place by the end of August. Phase two is actually doing the matching. It is also resolving other issues, such as, District Attorney charges and dismissed charges, as well as added charges so agencies can see the history of actions taken. It is a multi effort requiring information from all sources who were involved in the case. Phase three is adding the sentencing Judgment of Conviction which has not been looked at yet because it requires a standardization in the court system. Right now all courts are doing different things. Phase four will address the backlog with the majority in Clark County. Mr. Tuttle wants to insure the Administrative Office of the Courts is working closely with the Department of Public Safety to make sure the technical solution works with the business processes. Mr. Tuttle stressed that they need to bring users on board so they do not lose sight of the user. Mr. Westergard asked about the accessibility of the system. Mr. Tuttle explained it is accessible only to the justice system. Mr. Titus explained that MCIJIS owns their information. Mr. Tuttle explained if you wanted a court document you would have to go to the court to get that document, it is not available to the public electronically. He explained the security standards according to all of the different agencies requirements. The problem is having three entities with different missions and matching charges for a better success rate. Captain O’Neill expressed his appreciation for the courts taking responsibility for the project. He also complimented Clark County for addressing their PCN issue. Assemblyman Anderson also expressed his appreciation to Mr. Tuttle’s presentation as they demonstrate the cooperation across criminal justice borders. He asked if the modification of the computer system will have the flexibility to move forward with new Legislation. Mr. Tuttle stated that the technology will be able to respond quickly to new Legislation. He further stated the theory behind the Nevada Offense Code (NOC) model is to accommodate changes in law. The old NOC does not go away it just becomes deactivated so historical data can be accessed. No action was taken.

G. Nevada Offense Code Revision (NOC) – Steve Tuttle, Steve Tuttle, Administrative Office of the Courts (discussion)

Mr. Tuttle gave a history of the NOC revision. The Records & Technology Division will be re-writing the Criminal History Repository database in the next several years so the new Nevada Offense Code (NOC) model is allowing for future renovation. He also explained the new Nevada Offense Codes are written according to statute or ordinance. He stated they have formulated an interim working group to ensure the old and new NOC system work in sync. This group will only be in place until a long term; more formal governing body is created. He also stated they are 50-60% complete with taking all local ordinances and updating them to reduce daily incoming requests for new NOCs. Assemblyman Anderson asked if the officer on the street pulls someone over and the officer inputs information on his computer and if the incorrect NOC is data entered will it be rejected. Mr. Tuttle said yes it would. Assemblyman Anderson asked if the officer can “fish” for the correct NOC. Mr. Tuttle said they could. Assemblyman Anderson asked if the rural areas are going to be able to do this also. Mr. Tuttle said they are currently inputting municipal codes to help this along. He stated the courts are being converted to the new code also. He explained that law enforcement can continue to use their old code but when it is sent through it will auto convert from the old to the new. The courts will not push the agencies to convert but will be available for support when they need it. Mr. Tuttle also stated he was using court resources and using them for non-court efforts. Mr. Tuttle wants everyone to know that this system is growing and wants the system to grow even more but he it would take this body to recognize the need to move forward and support this. No action was taken.

Break at 2:45pm

Reconvened at 3:04pm

H. Supreme Court Order Regarding Indigent Defense Preparation – John McCormick, Rural Court Coordinator, Administrative Office of the Courts (discussion)

Mr. McCormick introduced himself and explained he is the primary staff person for the Indigent Defense Commission. He stated on February 28, 2008 he was contacted by Dianne McCord with questions about the indigent defense order. Mr. McCormick stated the District Attorney had concerns about performance standards and they felt they did not have significant time to provide input, so the courts had a hearing in March 2008. The courts decided to stay the performance standards until July 2008 and then they were stayed again until September 2008. During that time the courts reconvened the Indigent Defense Commission. Clark County Deputy District Attorney and Washoe County District Attorney’s re-examined performance standards and reconciled concerns. They created a preamble to explain the function of the performance standards. Mr. McCormick handed a copy of the preamble to the members of the committee. Mr. McCormick pointed out certain passages from the preamble. One passage he spoke of stated that the standards are a tool for Defense Attorneys to use and apply to a specific case and the needs of a case. District Attorneys have agreed to the specifics of the discovery process in the letter provided. The District Attorneys have resolved it down to two sets of standards, one with a lot of agreed upon changes and one with unresolved changes. Mr. McCormick informed the members all the information is the website at www.nvsupremecourt.us/ccp/commissione/idc/index . Ms. McCord stated the District Attorney had pointed out some problems concerning criminal history information acquired during discovery.

H. Supreme Court Order Regarding Indigent Defense Preparation – John McCormick, Rural Court Coordinator, Administrative Office of the Courts (discussion) cont.

Assemblyman Anderson stated that the Legislature has diligently attempted to ensure there is a fair trial by allowing all information to be available to the defense attorney so if the District Attorney shreds any information that leaves a huge loop hole leaving an inadequate ability to provide defense. He asked Mr. McCormick if he thought they will have a resolution before January. Mr. McCormick stated there will be another hearing on September 5, 2008 and that they have given the performance standards to the court. He guesses there will be some movement on it before the next session begins. No action was taken.

I. Steering Committee Briefing – Patti Peters, NCJIS Southern Subcommittee Chair and Teresa Wiley, NCJIS Northern Subcommittee Chair (discussion)

Ms. Peters introduced herself and then notified the committee of the retirement of the previous Northern Chair, Kalene Dickerson and introduced the new Chair for the North, Ms. Wiley. Ms. Peters informed the members that the subcommittees generally try to conduct their meetings just prior the Steering Committee meetings. She stated there are four issues they are addressing at this time. The first issue is the files which are being reviewed to see if there are any issues for recommendation or enhancement. The second is JLINK which is also being reviewed for recommendation. The third issue is data transport through all of the channels is being reviewed for need from field officers and office personnel. The last issue is warrant files that went live. The next Southern Subcommittee meeting will be held before November. Captain O'Neill stated he recalled issues with the Department of Motor Vehicles and wanted to know if coordination has been successful. Ms. Peters stated the Department of Motor Vehicles has been cooperative. Captain O'Neill thanked everyone who has stepped forward to help address the issues. Assemblyman Anderson asked if folks in Clark County were going to purchase the systems in the police cars that will scan autos for insurance compliance. Ms. Peters said they currently have readers that function for other reasons and she is unsure if they have budgeted for the new devices. Ms. Wiley told the members she was glad to be here and explained the north is working on some of the same issues as the South. She announced Sparks Police Department Chief John Dotson is retiring effective August 29, 2008. No action was taken.

J. SEARCH Up-Date – Captain O'Neill (discussion)

Captain O'Neill attended the SEARCH National Consortium for Criminal Justice Information Sharing Meeting a few weeks ago. He gave a history as to their purpose and role. He explained one of their roles is as lobbyist group in Washington D.C. Captain O'Neill stated the NICS Improvement Act was discussed relating to recent law passed in light of the Virginia Tech shootings dealing with mental defective information. A large grant was attached to aid with improving reporting through Technology but it was not funded and funding is not expected until 2010. They started working on a base line to see what information is currently available. Comments by participants are due by October 3, 2008. Assemblyman Anderson observed they took up this issue before, self committed versus court committed. He stated the computer system would not support going back in time 20-30 years on these cases. He asked Captain O'Neill if any of the discussion included a baseline or timeframe. Captain O'Neill stated the federal entity wanted to go back 20 years and SEARCH is lobbying for 10. Assemblyman Anderson asked Mr. Titus if the court system supports 10 years. Mr. Titus does not know what the retention standards are for those cases. Ms. Butler interjected that they want us to certify that the Repository has talked to the head of the State Mental Health Department. The Repository will have to coordinate with State Mental Health and figure out what records they have and what records the Repository has and it is mandated that we all sign off on it. Right now all they are seeking are comments, finding out if the data they are seeking is necessary, is it available, is it easy to collect, etc. They do not want the survey completed at this time but it is coming based on the comments they receive. Captain

J. SEARCH Up-Date – Captain O’Neill (discussion) cont.

O’Neill continued with his report explaining various grants that effect law enforcement was discussed. He stated that the Byrne and JAG grants are basically history. He noted the Violence Against Women’s Act maintains strong funding groups and the RISS groups are still funded. He said do not look for grants to sustain beyond three years. Captain O’Neill gave a friendly hint to all grant writers; do exactly as directed on the grant application because if you deviate at all it will be cut as competition is strong for the money. Captain O’Neill also attended the SMART Offices symposium for state Sex Offender Registries in Maryland. He explained the state was ready to enact the Adam Walsh Act on July 1, 2008 but the US Justice Court put a stay on it. Orders have been issued limiting discussion on the Adam Walsh Act. He explained some states have excluded tiering, some went from public sites to a non-public site, some states put all sex offenders on their public site and some states charge their sex offenders to register, some have added residency rules as to where you can and can not live, a tier 3 is a lifetime registration with no exceptions, etc. He also stated that many states are struggling with the juvenile offender questions. The SMART Office is supplying various types of assistance to some agencies. In summation, although the picture is out there I still think some of the ink will dry and some of the colors may change, going from a bright blue to a lesser blue. It is pretty well set until the Legislature convenes; it will probably have to come from the Federal Legislature to change. He stated that the sex offenders have a sex offender website advising them of which states are advantageous for them to live in. I believe that site address is www.registerdcitizens.org Captain O’Neill shared some of what Nevada is doing. Ms. McCord shared what Nevada is doing with driver’s license transactions. She explained how we flag driver’s licenses. When a sex offender goes in to renew his/her license and they have failed to up-date their registration it will deny them their license until they are in compliance. Captain O’Neill explained that he will present a topic paper discussing the confirmation of Temporary Protection Orders (TPO) to the CJIS Working Group. They will ask them to change the confirmation period from one hour to either a next business day or three day confirmation. This is based on the Full Faith and Credit Act. No action was taken.

K. Public Comment (discussion)

No public comment. No action was taken.

L. Comments from Committee Members (discussion)

Mr. Westergard had mentioned earlier to Ms. Butler that last week The Gaming Control Board inquired with Records and Technology on the status of private fingerprinting vendors being able to accept electronic fingerprints. He asked Ms. Butler to correct him if he was wrong but her reply had been that it is ready to go as far as policy and it was waiting on the Board of Examiners. Ms. Butler explained that there is a piece of hardware that the Division is trying to implement that is awaiting a contract amendment. This piece of hardware will allow storage of all fingerprints coming in, whether civil or criminal, in a central location that can be pulled out to process when they are ready. The agencies in the Health Division’s pilot program distributed Livescan machines statewide which are waiting to be automated. Two to three years ago there was a commitment that as soon as the Store and Forward was in place direct connection would be implemented. The other option was to connect through a channeling agency. Most agencies opted out due to extensive fees. Any of the agencies can go through the vendor or wait until the Store and Forward is available. Ms. Butler further stated, Records and Technology will be distributing a letter to those agencies that are waiting advising them that due to budget cuts we do not have the staff to do site visits and hook ups with support and that they will have to use a vendor and pay the extra fees. The plan was to roll out law enforcement first then the others but now Records and Technology can not keep that commitment. Even with the additional cost the printee will save money because the process will be automated which costs less than manual processing. Mr. Westergard asked who will collect the extra fee, the vendor or The Gaming Control Board. Ms. Butler was not sure on the billing end of

L. Comments from Committee Members (discussion) cont.

that. Assemblyman Anderson asked if Real Estate falls into the same category. Ms. Butler stated Real Estate is already submitting electronically through IBT and will stay there. She stated the Division is looking at creating an approved vendor list if the agencies want more options than IBT. She pointed out that the FBI does the same thing with a list of approved channelers. Mr. Westergard asked for a list of agencies currently hooked up and Ms. Butler said the agencies are in Las Vegas with no known agencies in the north looking to be hooked up through IBT. Ms. Butler will have the Division's fiscal officer verify who the billing goes through. Captain O'Neill explained the budget cuts have caused the Division to look at current and future business processes and projects and what can be modified. Assemblyman Anderson wanted to personally thank the Records and Technology Division for being a personal solution to the state budget problem. It was done graciously and reflected powerfully on the other entities in the state. Captain O'Neill acknowledged Assemblyman Anderson's kind comments. No action was taken.

M. Schedule next NCJIS Advisory Committee meeting (action)

Captain O'Neill proposed January 8, 2009 from 1pm – 5pm for the next meeting. It was agreed upon unanimously. Ms. Bagwell moved to adjourn and Assemblyman Anderson seconded. All in favor none opposed. No action was taken.

4:17 P.M. Adjourn